

REMARKS

The Examiner's action of December 13, 2006 is noted in which the Examiner erroneously refuses to acknowledge the Rule 131 Declaration because "Applicant has failed to provide specific evidence" that he worked diligently from his concept date to either February 22, 2000 or April 26, 2000."

Applicant must show diligence, not from the conception date of his invention to the date of its constructive reduction to practice, but rather from prior to the filing date of the Schoenberg reference to the constructive reduction to practice date of February 15, 2001.

Regardless, Applicant provides herewith a Supplemental Rule 131 Declaration indicating that the actual date of conception was July 22, 1996 and that since that time until the constructive reduction to practice of his invention he did not abandon, suppress or conceal his invention as evidenced by:

- his August 5, 1996 memorandum;
- his August 31, 1996 memorandum;
- his September 15, 1996 memorandum;
- his October 15, 1996 memorandum;
- his November 9, 1996 memorandum;
- his November 12, 1996 memorandum;
- his November 16, 1996 memorandum;
- his December 7, 1996 memorandum;
- his December 14, 1996 memorandum;
- his January 13, 1997 memorandum;

his February 8, 1997 memorandum;
his March 4, 1997 memorandum;
his April 3, 1997 memorandum;
his May 3, 1997 memorandum;
his May 24, 1997 memorandum;
his June 15, 1997 memorandum;
his July 13, 1997 memorandum;
his August 9, 1997 memorandum;
his August 23, 1997 memorandum;
his September 20, 1997 memorandum;
his October 19, 1997 memorandum;
his November 16, 1997 memorandum;
his December 13, 1997 memorandum;
his January 11, 1998 memorandum;
his February 8, 1998 memorandum;
his March 8, 1998 memorandum;
his March 28, 1998 memorandum;
his April 26, 1998 memorandum;
his May 25, 1998 memorandum;
his June 25, 1998 memorandum;
his July 25, 1998 memorandum;
his August 23, 1998 memorandum;

his September 19, 1998 memorandum;
his October 18, 1998 memorandum;
his November 15, 1998 memorandum;
his December 15, 1998 memorandum;
his January 10, 1999 memorandum;
his February 10, 1999 memorandum;
his March 10, 1999 memorandum;
his April 10, 1999 memorandum;
his May 9, 1999 memorandum;
his June 9, 1999 memorandum;
his July 9, 1999 memorandum;
his August 8, 1999 memorandum;
his September 8, 1999 memorandum;
his October 8, 1999 memorandum;
his November 8, 1999 memorandum;
his December 8, 1999 memorandum; and
his January 8, 2000 memorandum.

Applicant has previously provided evidence of diligence from February 22, 2000 through February 15, 2001.

If nothing else, the above documentation indicates an incredible amount of forward movement and “stick-to-it-iveness,” indicating that there was no abandonment of the invention.

Of course if someone states "I intend to abandon my invention," then one can have an intentionally abandoned invention, which intention to abandon could be shown by a 2-day period in which activity is lacking. For instance, an inventor might get fired and state he is abandoning his invention; and then start up again two days later. It all depends on the facts of the case. However, there are no facts here that in any way suggest abandonment.

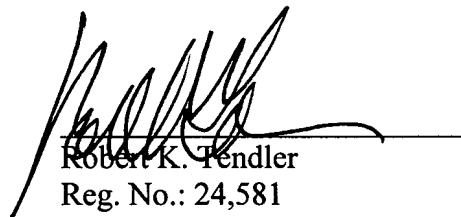
All of the above suggests strongly there was no abandonment from the conception of the invention all the way through to the constructive reduction to practice, and to say otherwise flies in the face of what is documented and what actually happened.

Applicant therefore requests reconsideration.

As will be appreciated, if the Rule 131 Declarations are effective, none of the references sworn behind can be used.

Allowance of the claims and issuance of the case are therefore respectfully requested.

Respectfully submitted,



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